



Texas Department of Insurance

Division of Workers' Compensation

Medical Fee Dispute Resolution, MS-48

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name and Address

JACOB ROSENSTEIN MD
800 WEST ARBROOK BLVD SUITE 150
ARLINGTON TX 76015

Respondent Name

EMPLOYERS MUTUAL CASUALTY CO

Carrier's Austin Representative Box

Box Number 19

MFDR Tracking Number

M4-06-4662-01

MFDR Date Received

MARCH 20, 2006

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary Dated March 30, 2006: "Code 63056 for \$1778.84 for the Laminectomy at L4-5 was reduced stating it is 'charges exceed the allowable based on the multiple procedure rule.' This is incorrect because this code is the PRIMARY procedure!...The MAR for this code is \$1778.84 but only half of the billed amount was reimbursed, so \$889.42 is still due." "Code 38230-51 for \$388.46 for the harvesting of the bone marrow was reduced and reimbursed at \$78.44. The MAR for this code is \$388.46 and half of it is \$194.23. Since \$78.44 was reimbursed, \$115.79 is still due." "Code 20938 for \$247.01 for the right iliac osteotomy denied stating 'documentation does not support this service'. This is incorrect as this code is not global to any other code. The MAR for this code is \$247.01, so \$247.01 is still due."

Requestor's Supplemental Position Summary Dated December 9, 2008: "Will you withdraw all the DOP codes for example 20936, 27299, 63048, and 90779 on all pending active disputes we have with your office."

Amount in Dispute: \$1,252.22

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary Dated April 10, 2006: "First, the Requestor improperly unbundled repair of the iliac crest fro the charge for the autograph, and therefore no additional amount was paid on reconsideration. Second, Code 63056 was reduced 50% as being not modifier-51 exempt of an add-on procedure. Third, a pyment was made for Code 20936, but the November 1999 C.P.T. Assistant prohibited payment for another autograph."

Respondent's Position Summary Dated April 20, 2006: "Carrier has previously responded to this dispute on 04/10/2006. Please find attached additional information pertinent to this dispute."

Response Submitted by: Flahive, Ogden & Latson

SUMMARY OF FINDINGS

| Dates of Service | Disputed Services | Amount In Dispute | Amount Due |
|------------------|-------------------|-------------------|------------|
| July 29, 2005 | CPT Code 63056 | \$889.42 | \$0.00 |
| | CPT Code 38230-51 | \$115.79 | \$115.79 |
| | CPT Code 20938 | \$247.01 | \$247.01 |
| TOTAL | | \$1,252.22 | \$362.80 |

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and all applicable, adopted rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving a medical fee dispute.
2. 28 Texas Administrative Code §134.202, effective August 1, 2003, sets the reimbursement guidelines for the disputed services.
3. The services in dispute were reduced/denied by the respondent with the following reason codes:

Explanation of benefits dated August 30, 2005

- 329-Allowance for this service represents 50% because of multiple or bilateral rules.
- 298-Only one is allowed per date of service.
- 151-Payment adjusted because the payer deems the information submitted does not support this many services.
- 45-Charges exceed your contracted/legislated fee arrangement.
- 59-Charges are adjusted based on multiple surgery rules or concurrent anesthesia rules.

Issues

1. Does the submitted documentation support that a contractual agreement issue exist in this dispute?
2. Is the requestor entitled to reimbursement for CPT code 63056?
3. Is the requestor entitled to reimbursement for CPT code 38230-51?
4. Is the requestor entitled to reimbursement for CPT code 20938?

Findings

1. According to the explanation of benefits, the carrier paid the services in dispute in accordance with a contracted or legislated fee arrangement. The "PPO DISCOUNT" amount on the submitted explanation of benefits denotes a "0.00" discount. The Division finds that documentation does not support that the services were discounted due to a contract; therefore, reimbursement for the services will be reviewed in accordance with applicable division rules and guidelines.
2. 28 Texas Administrative Code §134.202(b) states "For coding, billing, reporting, and reimbursement of professional medical services, Texas Workers' Compensation system participants shall apply the Medicare program reimbursement methodologies, models, and values or weights including its coding, billing, and reporting payment policies in effect on the date a service is provided with any additions or exceptions in this section."

On the disputed date of service the requestor billed codes 63056, 22612-51, 22630-51, 20938, 27299, 22842, 22851, 22851, 22614, 22632, 38230-51, 38220-51, 20938, 76003 and 76000.

CPT code 63056 is defined as "Transpedicular approach with decompression of spinal cord, equina and/or nerve root(s) (eg, herniated intervertebral disc), single segment; lumbar (including transfacet, or lateral extraforaminal approach) (eg, far lateral herniated intervertebral disc)".

According to the explanation of benefits, CPT code 63056 was paid based upon reason codes "59 and 329".

The requestor states in the position summary that "Code 63056 for \$1778.84 for the Laminectomy at L4-5 was reduced stating it is 'charges exceed the allowable based on the multiple procedure rule.' This is incorrect because this code is the PRIMARY procedure!...The MAR for this code is \$1778.84 but only half of the billed amount was reimbursed, so \$889.42 is still due."

A review of the submitted explanation of benefits, finds that the respondent paid CPT code 22612 at 100% of the MAR because typically the procedure or service with the higher relative value is paid at 100%.

The requestor is not disputing the payment of CPT code 22612; therefore, the Division finds that reimbursement of 50% of the MAR for code 63056 is appropriate. As a result, additional reimbursement cannot be recommended.

3. CPT code 38230-51 is defined as "Bone marrow harvesting for transplantation; allogeneic."

According to the explanation of benefits, CPT code 38230-51 was denied payment based upon reason code "45".

The requestor states in the position summary that "Code 38230-51 for \$388.46 for the harvesting of the bone marrow was reduced and reimbursed at \$78.44. The MAR for this code is \$388.46 and half of it is \$194.23. Since \$78.44 was reimbursed, \$115.79 is still due."

The requestor states that \$78.44 was paid for CPT code 38230-51; however, a review of the explanation of benefits indicates the insurance carrier paid \$78.44 for code 38220-51 and \$0.00 for code 38230-51.

Per CCI Edits CPT code 38220-51 is a component of code 38230-51. Therefore, the insurance carrier incorrectly paid \$78.44 for code 38220-51. The \$78.44 will be credited to CPT code 38230-51.

Per Rule 134.202(b), the maximum allowable reimbursement, (MAR) is determined by locality. A review of Box 32 on CMS-1500 indicates that the zip code 76017 is the locality. This zip code is located in Tarrant County.

28 Texas Administrative Code §134.202(c)(1) states "To determine the maximum allowable reimbursements (MARs) for professional services system participants shall apply the Medicare payment policies with the following minimal modifications: "for service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Surgery, Radiology, and Pathology the conversion factor to be used for determining reimbursement in the Texas workers' compensation system is the effective conversion factor adopted by CMS multiplied by 125%."

The Medicare allowable for CPT code 38230 in Tarrant County is \$310.77. Per 28 Texas Administrative Code §134.202(c)(1) this amount is multiplied by 125% equals a MAR of \$388.46. This code is subject to multiple procedure rule discounting of 50%; therefore, the MAR is \$194.23. The difference between the MAR and amount paid is \$115.79. As a result, the amount ordered is \$115.79.

4. CPT code 20938 is defined as "Autograft for spine surgery only (includes harvesting the graft); structural, bicortical or tricortical (through separate skin or fascial incision) (List separately in addition to code for primary procedure)."

According to the explanation of benefits the respondent denied payment based upon reason codes "151 and 298".

The Medicare allowable for CPT code 20938 in Tarrant County is \$197.61. Per 28 Texas Administrative Code §134.202(c)(1) this amount is multiplied by 125% equals a MAR of \$247.01. This code is not subject to multiple procedure rule discounting; therefore, the MAR is \$247.01. The difference between the MAR and amount paid is \$247.01. As a result, the amount ordered is \$247.01.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$ 362.80.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$362.80 plus applicable accrued interest per 28 Texas Administrative Code §134.803, due within 30 days of receipt of this Order.

Authorized Signature

| | | |
|--------------------|---|------------------|
| _____ Signature | _____ Medical Fee Dispute Resolution Officer | 1/8/2013 Date |
|--------------------|---|------------------|

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute may appeal this decision by requesting a contested case hearing. A completed **Request for a Medical Contested Case Hearing** (form **DWC045A**) must be received by the DWC Chief Clerk of Proceedings within **twenty** days of your receipt of this decision. A request for hearing should be sent to: Chief Clerk of Proceedings, Texas Department of Insurance, Division of Workers Compensation, P.O. Box 17787, Austin, Texas, 78744. The party seeking review of the MDR decision shall deliver a copy of the request for a hearing to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision* together with any other required information specified in 28 Texas Administrative Code §148.3(c), including a **certificate of service demonstrating that the request has been sent to the other party.****

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.